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10/708,842	03/26/2004	Megan Chew	04CHE1	2841
39795	7590	10/02/2007	EXAMINER	
LAURA N. TUNNELL			GHALI, ISIS A D	
P.O. BOX 6003			ART UNIT	
SANTA BARBARA, CA 93160			PAPER NUMBER	
			1615	
			NOTIFICATION DATE	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DRLNT@SILCOM.COM

## Office Action Summary

**Application No.**

10/708,842

**Applicant(s)**

CHEW, MEGAN

**Examiner**

Isis A. Ghali

**Art Unit**

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

### **DETAILED ACTION**

Claims 1-6 are pending and included in the prosecution.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "at least partially" in claim 1 is a relative term which renders the claim indefinite. The term is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Recourse to the specification does not define the expression.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

*Present claim 1 is directed to bandage comprising animal repellant incorporated in the bandage at the time of manufacture. Present claim 6 is directed to sheet with animal repellant coated thereon.*

4. Claims 1, 2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 96/28113 ('113).

WO '113 disclosed veterinary bandage comprising substrate and an anti-chew substance internally incorporated into the material of the bandage, such as the substrate, coating or adhesive layer (abstract; page 3, lines 11-34; page 9, lines 1-7; claims 1 and 7). The bandage comprises two layers, and the anti-chew substance can be added as coating to the exterior layer (abstract), in this case the internal layer reads on the bandage and the exterior layer reads on the covering of the bandage, thus meeting the limitation of claim 6.

5. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by US 4,097,607 ('607).

US '607 disclosed animal bandage or cast, which reads on sheet, coated with animal deterrent (abstract; col.1, lines 15-17, 56-59).

6. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by US 6,070,557 ('557).

US '557 disclosed cover for protecting animal wounds by covering animal bandage and dressing by cover impregnated with flavor distasteful to the animal

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(abstract; col.5, lines 26-30, 35-39, 42-45). Impregnation encompasses coating because it will leave a layer on the outer surface of the impregnated material. The figures of the reference show the cover is elongated sheet that costumed to different shapes according to the intended use.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO '113 in view of US 7,011,843 ('843).

The teachings of WO '113 are discussed under U.S.C. 102 rejection as set forth in this office action.

Although WO '113 teaches bandage comprising more than one layer, however, the reference does not teach separating the layers with impermeable layer as claimed by claim 3.

US '843 teaches transdermal patch comprising deterrent that is applied to impermeable backing layer to deter any abuser when the patch contact the mucosa of the mouth (abstract; col.2, lines 33-35, 41-43; col.4, lines 6-8, 14-15). Therefore, US

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'843 teaches the impermeable backing is positioned between the skin-contacting layer and the layer containing the deterrent.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide veterinary bandage comprising two layers and comprising and an anti-chew substance internally incorporated into the outer layer of the bandage as disclosed by WO '113, and further add impermeable layer between the two layers as disclosed by US '843. Motivation will flow logically from the teaching of the reference and from the transdermal art that impermeable layer will not let medication from the patch through the mucosa of the mouth when the patch contacts the mucosa, and mean while no deterrent material is transmitted through the skin when the patch is applied to the skin, with reasonable expectation of having veterinary bandage comprising two layers and an anti-chew substance internally incorporated into the outer layer of the bandage and having impermeable layer between the two layers to prevent passage of the medication to the outer layer of the bandage away from the animal or passage of deterrent material from the outer layer to the skin, providing safe effective treatment to the animal.

9. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO '113 in view of US 4,849,226 ('226).

The teachings of WO '113 are discussed under U.S.C. 102 rejection as set forth in this office action.

Although release liner are well known in the transdermal art to cover and protect bandages during storage and transportation, however, WO '113 does not explicitly teach release liner as claimed by claims 4 and 5.

US '226 teaches animal and human bandage having a release liner to protect the bandage (col.2, lines 50-51; col.4, lines 31-32).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide veterinary bandage comprising an anti-chew substance incorporated into the outer layer of the bandage as disclosed by WO '113, and further add a release liner to one or both sides of the bandage because US '226 teaches that release liner protects the bandage, with reasonable expectation of having veterinary bandage comprising an anti-chew substance and covered on one or both sides by release liner to protect the bandage to successfully provide the desired therapeutic effect to the animal.

### ***Correspondence***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isis A. Ghali whose telephone number is (571) 272-0595. The examiner can normally be reached on Monday-Thursday, 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

IG

Isis A Ghali  
Primary Examiner  
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PRIMARY EXAMINER